

CHAPTER 57



Development Agreements

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17.56.01 Purpose

The lack of certainty in the approval of development projects can result in the waste of resources, escalate the cost of housing and other development to the consumer, and discourage investment in and commitment to comprehensive planning which would make maximum efficient utilization of resources at the least economic cost to the public. A development agreement assures the applicant that existing policies, rules and regulations, and conditions of approval remain in place once the project has been approved.

17.56.02 Authority

Any city may enter into a development agreement with any person having a legal or equitable interest in real property for the development of property. Further, Firebaugh may enter into a development agreement with any person having equitable interest in real property in unincorporated territory within its sphere of influence. However, the agreement shall not become operative unless annexation proceedings are completed within the time limit specified by the agreement.

17.56.03 Development Agreement Contents

A development agreement shall specify the duration of the agreement, the permitted uses of the property, the density or intensity of the use, the maximum height and size of buildings, and provisions for reservation or dedication of land for public purposes. The development agreement may contain conditions, terms, restrictions, and requirements for subsequent discretionary actions and shall not prevent development of the land for the uses and to the density or intensity of development set forth in the agreement. The agreement may provide that construction shall be commenced within a specified time and that the project or any phase thereof be completed within the specified time. The agreement may also include terms and conditions relating to the applicant's financing of necessary public facilities and subsequent reimbursement over time.

17.56.04 Application and Fees

An application for a development agreement shall be made to the Planning Department on a form prescribed by the Department. The application shall be accompanied by a fee set by resolution of the City Council.

17.56.05 Hearings and Notice

A public hearing on an application for a development agreement shall be held by the Planning Commission and City Council. Notice of intention to consider adoption of a development agreement shall be given consistent with Section 25-5 (Public Hearings).

17.56.06 Report and Findings

The Planning Department shall prepare a report on the development agreement application. The Department shall provide a recommendation based on the following findings.

- a. That the location of the proposed project is in accordance with the purpose and objectives of this Ordinance and the purposes of the district in which the subject site is located.
- b. That the location of the proposed project and the conditions under which it would be operated or maintained will not be detrimental to the public interest, health, safety, convenience or welfare, or be materially injurious to properties or improvements in the vicinity.

- c. That the proposed project has complied with requirements of the California Environmental Quality Act.
- d. That the proposed project will comply with applicable provisions contained in this Ordinance.
- e. That the proposed project is consistent with the Firebaugh General Plan and any specific plans.

17.56.07 Development Agreement Regulations

Unless otherwise provided by the development agreement, rules, regulations, and policies governing the permitted uses of land, density, and design, improvement and construction standards and specifications applicable to development of the property subject to a development agreement shall be those rules, regulations, and official policies in force at the time of execution of the agreement.

17.56.08 Action of the Planning Commission

Following a public hearing, the Planning Commission shall review the Planning Department's report and shall take action on the development agreement. The Commission can approve, approve with conditions or deny the development agreement. The Commission's action and findings shall be forwarded in a resolution to the City Council.

17.56.09 Action of the City Council

Following a public hearing, the City Council shall consider the Commission's action and findings and the information contained in the staff report. The Council can approve, approve with modifications or deny the development agreement. Said actions shall be by means of an ordinance.

17.56.10 Amendment or Cancellation of Development Agreement

Either party may propose an amendment to or cancellation of, in whole or in part, the development agreement previously entered into. If proposed by the applicant the procedure shall be the same as the procedure for entering into an agreement. However, where the City Council initiates the proposed amendment to or the cancellation of, the development agreement it first shall give at least 30 days notice to the applicant of its intention to initiate proceedings in advance of giving public notice.

17.56.11 Recordation of Development Agreement

No later than 10 days after Firebaugh enters into a development agreement, the city clerk shall record with the Fresno County Recorders Office a copy of the agreement. The burdens of the agreement shall be binding upon, and the benefits of the agreement shall apply to all successors in interest to the parties to the agreement.

17.56.12 Review of Development Agreement

An approved development agreement shall be reviewed at least every 12 months, at which time the applicant, or successor in interest thereto, shall be required to demonstrate good faith compliance with the terms of the agreement. If, as a result, of such periodic review, the local agency finds and determines, on the basis of substantial evidence, that the applicant or successor in interest thereto has not complied in good faith with the terms or conditions of the agreement, the local agency may terminate or modify the agreement.